

## **BILL ANALYSIS**

Senate Research Center  
85R12810 MEW-D

H.B. 3391  
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State Affairs  
5/19/2017  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In 2009, the legislature passed law that created an optional pre-trial diversion program for veterans who have committed a crime as a result of suffering from job-related post-traumatic stress disorder (PTSD). The program, commonly referred to as the "veterans court program," has to be authorized by a county commissioners court, and a defendant can only be admitted to the program with the consent of the attorney representing the state.

The goal of this program is to give veterans who return home from combat with serious mental health issues the opportunity to have their cases heard and addressed in a special program that seeks to provide treatment for the psychological issues he or she is experiencing rather than send them straight through the criminal justice system.

H.B. 3391 creates this same optional program for public safety employees such as peace officers, firefighters, detention officers, county jailers or EMS service employees who have been charged with a criminal offense due to job-related PTSD or other work-related mental issues. These individuals serve in a profession that is known for high levels of danger and stress. Placing them in a program that addresses the root of their mental health problems will provide these otherwise upstanding citizens with the opportunity to overcome their work-related problems, and allow them the chance to once again become productive members of society rather than simply put them through the criminal justice system.

H.B. 3391 amends current law relating to the creation of a specialty court for certain public safety employees who commit a criminal offense and imposes fees for participation and testing, counseling, and treatment.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle K, Title 2, Government Code, by adding Chapter 129, as follows:

#### **CHAPTER 129. PUBLIC SAFETY EMPLOYEES TREATMENT COURT PROGRAM**

Sec. 129.001. DEFINITION. Defines "public safety employee."

Sec. 129.002. PUBLIC SAFETY EMPLOYEES TREATMENT COURT PROGRAM DEFINED; PROCEDURES FOR CERTAIN DEFENDANTS. (a) Defines "public safety employees treatment court program."

(b) Requires the court in which the criminal case is pending, if a defendant successfully completes a public safety employees treatment court program (program), after notice to the attorney representing the state and a hearing in the public safety employees treatment court at which that court determines that a dismissal is in the best interest of justice, to dismiss the case against the defendant.

Sec. 129.003. **AUTHORITY TO ESTABLISH PROGRAM; ELIGIBILITY.** (a) Authorizes the commissioners court of a county to establish a program for persons arrested for or charged with any misdemeanor or felony offense. Provides that a defendant is eligible to participate in a program established under this chapter only if the attorney representing the state consents to the defendant's participation in the program and if the court in which the criminal case is pending finds that the defendant is a certain current or former public safety employee.

(b) Requires the court in which the criminal case is pending to allow an eligible defendant to choose whether to proceed through the program or otherwise through the criminal justice system.

(c) Authorizes proof of matters described by Subsection (a) to be submitted to the court in which the criminal case is pending in any form the court determines to be appropriate, including medical records or testimony or affidavits of other public safety employees. Requires that the court's findings accompany any docketed case.

Sec. 129.004. **DUTIES OF PUBLIC SAFETY EMPLOYEES TREATMENT COURT PROGRAM.** (a) Requires that a program established under this chapter ensure that a defendant eligible for participation in the program is provided legal counsel before volunteering to proceed through the program and while participating in the program, allow a participant to withdraw from the program at any time before a trial on the merits has been initiated, provide a participant with a court-ordered individualized treatment plan indicating the services that will be provided to the participant, and ensure that the jurisdiction of the public safety employees treatment court continues for a period of not less than six months but does not continue beyond the period of community supervision for the offense charged.

(b) Requires that a program established under this chapter make, establish, and publish local procedures to ensure maximum participation of eligible defendants in the county or counties in which those defendants reside.

(c) Authorizes a program to allow a participant to comply with the participant's court-ordered individualized treatment plan or to fulfill certain other court obligations through the use of videoconferencing software or other Internet-based communications.

(d) Provides that this chapter does not prevent the initiation of procedures under Chapter 46B (Incompetency to Stand Trial), Code of Criminal Procedure.

Sec. 129.005. **ESTABLISHMENT OF REGIONAL PROGRAM.** (a) Authorizes the commissioners courts of two or more counties to elect to establish a regional program under this chapter for the participating counties.

(b) Provides that, for purposes of this chapter, each county that elects to establish a regional public safety employees treatment court program under this section is considered to have established the program and is entitled to retain fees under Article 102.0178 (Costs Attendant to Certain Intoxication and Drug Convictions), Code of Criminal Procedure, in the same manner as if the county had established a program without participating in a regional program.

Sec. 129.006. **FEES.** (a) Authorizes a public safety employees treatment court program established under this chapter to collect from a participant in the program a reasonable program fee not to exceed \$1,000 and a testing, counseling, and treatment fee in an amount necessary to cover the costs of any testing, counseling, or treatment performed or provided under the program.

(b) Authorizes fees collected under this section to be paid on a periodic basis or on a deferred payment schedule at the discretion of the judge, magistrate, or coordinator. Requires that the fees be based on the participant's ability to pay and used only for purposes specific to the program.

Sec. 129.007. COURTESY SUPERVISION. (a) Authorizes a program that accepts placement of a defendant to transfer responsibility for supervising the defendant's participation in the program to another program that is located in the county where the defendant works or resides. Authorizes the defendant's supervision to be transferred under this section only with the consent of both programs and the defendant.

(b) Requires a defendant who consents to the transfer of the defendant's supervision to agree to abide by all rules, requirements, and instructions of the program that accepts the transfer.

(c) Requires the program supervising the defendant, if a defendant whose supervision is transferred under this section does not successfully complete the program, to return the responsibility for the defendant's supervision to the program that initiated the transfer.

(d) Authorizes the court in which the criminal case is pending, if a defendant is charged with an offense in a county that does not operate a program, to place the defendant in a program located in the county where the defendant works or resides, provided that a program is operated in that county and the defendant agrees to the placement. Requires a defendant placed in a program in accordance with this subsection to agree to abide by all rules, requirements, and instructions of the program.

SECTION 2. Amends Article 59.062(f), Code of Criminal Procedure, to require that a civil penalty collected under this article be deposited to the credit of the drug court account in the general revenue fund to help fund specialty court programs, rather than drug court programs, established under certain chapters, including Chapter 129, Government Code, or former law.

SECTION 3. Amends Article 102.0178(g), Code of Criminal Procedure, to include Chapter 129, Government Code, among chapters under which drug court programs are established.

SECTION 4. Amends Subchapter B, Chapter 103, Government Code, by adding Sections 103.02714 and 103.02715, as follows:

Sec. 103.02714. ADDITIONAL MISCELLANEOUS FEES AND COSTS: GOVERNMENT CODE. Requires that a program fee for a program established under Section 129.003 be collected under Section 129.006 in a reasonable amount not to exceed \$1,000.

Sec. 103.02715. ADDITIONAL MISCELLANEOUS FEES AND COSTS: GOVERNMENT CODE. Requires a participant in a program administered under Chapter 129 to pay a fee in an amount necessary to cover the costs of any testing, counseling, or treatment performed or provided to the participant under the program.

SECTION 5. Amends Section 772.0061(a)(2), Government Code, to redefine "specialty court" to include a program established under Chapter 129.

SECTION 6. Amends Section 772.0061(b), Government Code, to require the governor to establish the Specialty Courts Advisory Council within the criminal justice division established under Section 772.006 to evaluate applications for grant funding for specialty courts in this state and to make funding recommendations to the criminal justice division and make recommendations to the criminal justice division regarding best practices for specialty courts established under certain chapters, including Chapter 129 or former law.

SECTION 7. Effective date: September 1, 2017.